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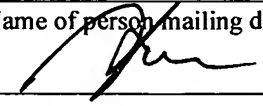Mail Stop Appeal Brief Patents, Commissioner for patents, P. O. Box 1450, Alexandria, VA 22313-1450 on
May 19, 2008
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Harold C. Moore
 Name of person mailing document or fee

Signature

May 19, 2008
Date of Signature

Re:		
	Application of:	Keenen, Jr. et al.
	Serial No.:	10/770,351
	Filed:	February 2, 2004
	For:	Method and Device for Upgrading a Building Control System
	Group Art Unit:	2174
	Confirmation No.:	7660
	Examiner:	Steven Paul Sax
	Our Docket No.:	**2003P01392US01 (1867-0042)**

BRIEF ON APPEAL

Sir:

This is an appeal under 37 CFR § 1.191 to the Board of Patent Appeals and Interferences

of the United States Patent and Trademark Office from the final rejection of claims 1-9 and 16-

17 of the above-identified patent application. These claims were indicated as finally rejected in

an Office Action dated November 16, 2007. A check in the amount of $510.00 is provided

herewith to cover the fee required under 37 CFR § 41.20(b)(2). Also, please provide any extension of time which may be necessary and charge any fees which may be due to Deposit Account No. 13-0014, but not to include any payment of issue fees.

(1) REAL PARTY IN INTEREST

Siemens Building Technologies, Inc. is the owner of this patent application, and therefore is the real party in interest.

(2) RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences in this case.

(3) STATUS OF CLAIMS

Claims 1-9 and 16-17 are pending in the application. Claims 10-15 have been canceled.

Claims 1-9 and 16-17 stand rejected and form the subject matter of this appeal. Claims 1-9 and 16-17 are shown in the Appendix attached to this Appeal Brief.

(4) STATUS OF AMENDMENTS

Applicants filed a Response to Office Action dated May 11, 2007 ("First Response") responsive to an Office Action dated January 11, 2007. A second and final Office Action dated August 7, 2007 ("Final Office Action") was designated by the Examiner to be responsive to the First Response. Applicants filed a Response to Final Office Action dated March 17, 2008 ("After Final") in response to the Final Office Action. The Examiner issued an Advisory Action on February 8, 2008 ("Advisory Action").

(5) SUMMARY OF THE CLAIMED SUBJECT MATTER

Independent claim 1 is directed to a method of integrating a third party device into a building control system. By way of non-limiting example, Fig. 11 shows a flowchart of a method of integrating a third party device. In particular, the flowchart illustrates how an Integration Tool is used to develop a driver application. (Specification at p.28, lines 19-21). Furthermore, developing a driver application is a method of integrating a third party device. (Specification at p.18, line 19 to p.19, line 15).

As claimed in claim 1, the building control system has a workstation running building control system program instructions and a separately housed field panel in communication with the workstation. By way of example, the building control system 20 of Fig. 1 includes a workstation 22 that runs building control system program instructions, and a separately housed field panel 26a, 26b is in communication with the workstation 22. (*Id.* at p.10, lines 3-6; p.11, lines 13-20).

The claimed method includes a step of providing a user interface for the input of data regarding a third party device. By way of example, the Integration Tool referenced in connection with the method of Fig. 11 provides user interface in the form of a dialog box 70 of Fig. 3. (*Id.* at p.19, lines 12-17).

The claimed method further includes accepting data input from the user regarding the third party device through the user interface. By way of example, in step 204 of Fig. 11, a user input is received that allows selection of an appropriate driver that is associated with a new device (or application) that is being integrated. (*Id.* at p.26, lines 1-4; see also p.19, lines 18-19).

The claimed method also includes launching an integration tool in response to the data input from the user regarding the third party device. By way of example, the selection of a driver

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to be added or device to integrated starts a series of specific operations, which can be considered to be the actual integration tool. (*Id.* at p.21, lines 2-23). These operations include step 206 of Fig. 11, wherein the user may then select and/or define points (variables) for the application. (*Id.* at p.21, lines 13-18; p.29, lines 5-7).

The claimed method further includes generating an integration file by the launched integration tool for use by a driver associated with the third party device. By way of non-limiting example, step 208 of Fig. 11 involves creation of an ISB file, an integrated systems binary file which constitutes the integration file because it includes the custom built applications (*Id.* at p.20, lines 16-19).

The method finally includes loading the generated integration file into the separately housed field panel for use by the driver associated with the third party device. By way of non-limiting example, the ISB file is uploaded into the BCS in step 210 of Fig. 11. As discussed elsewhere, this includes uploaded the ISB file into device "drivers". (*Id.* at p.21, lines 18-22) The device drivers are stored in memory 62 of the field panels 26. (*Id.* at p.18, lines 10-18; See also *id.* at p.24, lines 3-5)

Independent claim 6 is directed to a building control system that includes a workstation running building control system software, a field panel in electronic communication with, and separately housed from, said workstation via a network, and a software integration tool. By way of example, Fig. 1 shows a building control system 20 that includes a workstation 22, field panels 26a, 26b, and a software integration tool in the form of machine readable media that may be present on the workstation 22, or a laptop. (See *id.* at p.10, lines 3-7; p.18, line 19 to p.19, line 5; p.18 at lines 12-14).

As claimed, the software integration tool is configured to generate a database that will run in conjunction with said building control system software and to aid in integrating a third party device into the building control system. By way of example, integration tool on the workstation 22 may be used to generate a database that aids in integrating a third party device into the system. (See, e.g. *id.* at p.13, lines 4-6; p.15, lines 3-6).

As claimed, the software integration tool operative to a) provide a user interface for the input of data regarding a third party device, b) accept data input from the user regarding the third party device through the user interface, c) launch an application builder in response to the data input from the user regarding the third party device, d) generate an application file by the launched application builder for use by a driver associated with the third party device, and d) load the generated application file into the field panel for use by the driver associated with the third party device.

By way of non-limiting example, the integration tool performs such operations as disclosed in Fig. 11, steps 402-410, among other places. (See, e.g., *id.* at p.19, line 6 to p.21, line 23).

Independent claim 16 is directed to a method of operating a building control system having a workstation and at least one field panel. By way of non-limiting example, Fig. 1 shows a building control system 20 having a workstation 22 and at least one field panel 26a, 26b.

The claimed method includes detecting a user generated modification to a field panel data element by a field panel of the building control system. In the disclosed embodiment, changes to data at the field panel 26 may be made locally at the field panel 26. (*Id.* at p.17, lines 17-23). Moreover, the disclosed method of integrating a new device or application for a device may be

carried out *at* the field panel 26. (*Id.* at p.18, line 21 to p.19, line 2). Integrating a new device or application at a field panel involves changing data elements at the field panel 26. (*Id.* at p.21, lines 18-21).

The claimed method further includes storing data regarding the detected user generated modification to the field panel data element. In the disclosed embodiment, the newly integrated application is stored. (*Id.* at p.21, line 19). As claimed, the method recites appending field panel modification data to the data regarding the detected user generated modification to the field panel data element to define stored appended field modification data. By way of non-limiting example, newly save applications are put into an ISB file. (*Id.* at p.21, lines 19-21)

The claimed method also includes transmitting, by the field panel, the stored appended field modification data to the workstation. By was of non-limiting example, changes to field panel data, for example, application data changes, are transmitted by the field panel 26 to the workstation 22. (*Id.* at p.12, line 19 to p.13, line 6).

(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-9 and 16-17 are unpatentable under 35 U.S.C. 103(a) as being obvious over U.S. Patent No. 7,124,397 to Mathur (hereinafter "Mathur") in view of U.S. Patent No. 6,922,558 to Delp (hereinafter "Delp")

The claims do not all stand or fall together.

(7) ARGUMENT

A.   The Obviousness Rejections over Mathur and Delp

As will be discussed below, the rejection of claims 1-9 and 16-17 over Mathur and Delp are in error and should be reversed.

1.   Claim 1

The proposed combination of Mathur and Delp does not arrive at the invention of claim 1. In particular, claim 1 recites "loading the generated integration file into the separately housed field panel for use by the driver associated with the third party device". In an exemplary embodiment as discussed further above, this involves transferring a finished integration file ISB, such as for a new application, from either the workstation 22 or a laptop, into the field panel 26. The combination of Mathur and Delp as proposed by the Examiner does not arrive at a method that includes such a step.

a.   Mathur Does Not Teach the Claimed Loading Step

Mathur does not disclose or suggest "loading the generated integration file into the separately housed field panel for use by the driver associated with the third party device". The Examiner has alleged that Mathur teaches "loading the generated integration file into a field panel for use by the driver associated with the third party device" at col. 5, lines 50-67 and col. 6, lines 1-15. (Final Office Action at p.3). Applicants respectfully disagree. The cited paragraphs discuss various "initialization" files. However, the cited passages of Mathur do *not* disclose

loading those files into a field panel. The cited passages discuss files that are resident on a host computer, not a field panel.

Moreover, the Examiner has *not* alleged that the "generated integration files" are loaded onto a *separately housed field panel*.

b. Delp Does Not Teach the Claimed Loading Step

Mathur does not disclose or suggest "loading the generated integration file into the separately housed field panel for use by the driver associated with the third party device". The Examiner provided the following discussion of Delp:

> Mathur et al do not go into details that the system is for building control per se, but do mention environments for power control integration of third party devices. Delp et al do show a building control system as a convenient environment for power control integration of third party devices. [citations omitted] It would have been obvious ... to have the system in Mathur et al be for building control, because it would provide a convenient environment for power control integration of third party devices. This building control system would be separately housed than the field panel, as follows from the separate housing in Delp et al. In the event that this may not be clear, Examiner takes Official Notice that it would have been obvious ... to have the building control housed separately, because this would allow a convenient and organized environment for power control integration of third party vendor devices.

(Final Office Action at p.3).

Thus, the Examiner does not appear to allege that Delp teaches loading the generated integration file into the separately housed field panel. The Examiner only alleges that Delp teaches "a building control system as a convenient environment for power control integration of third party devices". Thus, according to the Examiner, it would have been obvious "to have the system in Mathur et al be for building control".

Even assuming that one would employ the system of Mathur for building control, that does not arrive at a method step of "loading the generated integration file into the separately housed field panel for use by the driver associated with the third party device". Mathur does not teach loading an integration file into a separately housed panel, and nothing about building

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control systems inherently require integration files (of the type claimed) to be created on one device and then loaded onto a separately housed field panel. The Examiner has not provide any proof that incorporating the system of Mathur into a building control system would *ipso facto* result in "loading the generated integration file into the separately housed field panel for use by the driver associated with the third party device".

The Examiner further states that this "building control system would be separately housed than the field panel, as follows from the separate housing of Delp et al." (*Id.*) This sentence does not appear to be accurate. However, even if it were, it does not address the claimed method step.

Firstly, it is not clear how a building control system could be separately housed from the field panel, as the field panel is generally considered to be a part of the building control system. (See, e.g. present application at Fig. 1). Secondly, even if it were true, neither reference teaches or discloses that the "application builder" of Mathur would necessarily need to be located in the "building control system" of Delp, nor that the integration file would necessarily need to be located in the "field panel" of Delp. As such, it is not clear how separate housing of the "building control system" and "field panel", if adopted somehow in Mathur, would necessarily arrive at "loading the generated integration file into the separately housed field panel for use by the driver associated with the third party device".

c.   The Proposed Combination

For the foregoing reasons, the proposed combination of Mathur and Delp does not arrive a system or method that performs the step of "loading the generated integration file into the

separately housed field panel for use by the driver associated with the third party device". For at least this reason, the obviousness rejection of claim 1 is in error and should be reversed.

d.   Official Notice

The Examiner has further stated that Official Notice is taken that "it would have been obvious to a person with ordinary skill in the art to have the building control housed separately, because this would allow a convenient and organized environment for power control integration of third party vendor devices." (Final Office Action at p.3)

It is submitted that this is an improper use of "Official Notice". Official Notice is appropriate for "facts outside of the record which are capable of instant and unquestionable demonstration as being 'well-known'". MPEP 2144.03. Whether it would be obvious to house building control and field panels separately because it would allow a convenient environment for power control integration of third party vendor devices is not capable of instant and unquestionable demonstration as being "well-known". It is not unquestionable that separately housing field panels and "building control" would be useful in "power control integration", nor particularly useful for "power control integration of third party vendor devices". These are complex systems performing complex tasks, and one cannot make sweeping generalizations that one architecture is more convenient than another for some specific purpose and consider, without further explanation, that the generalization is capable of "instant and unquestionable demonstration as being 'well-known'". Accordingly, it is respectfully submitted that the Examiner's use of "Official Notice" is improper and does not support a finding of obviousness.

Moreover, as described above, even if "Office Notice" were taken that it would be obvious to "have the building control housed separately, because this would allow a convenient

and organized environment for power control integration of third party vendor devices", the resulting modification would not arrive at the invention. As discussed above, merely separating building control from the field panel does not result an integration file being generated at one device, and then transferred to a field panel.

Accordingly, for multiple reasons, it is submitted that the Examiner has failed to support a prima facie case of obviousness with respect to claim 1 through the recitation of Official Notice.

d. Conclusion as to Claim 1

For the multiple foregoing reasons, the proposed modification of Mathur in view of Delp does not arrive at the invention of claim 1. In the alternative, the Examiner has not provided clear articulation of a combination of the Mathur and Delp that arrives at the invention of claim 1. As a consequence, reversal of the obviousness rejection of claim 1 is respectfully requested.

2. Claims 2-4 Are Not Argued Separately from Claim 1

Claims 2-4 depend from claim 1. The rejections of claims 2-4 are not argued separately from the rejection of claim 1.

3. Claim 5 is Argued Separately

Claim 5 depends from claim 1. Accordingly, the obviousness rejection of claim 5 should be reversed for all of the reasons set forth above in connection with claim 1.

Moreover, the obviousness rejection of claim 5 should be reversed for reasons independent of those recited above in connection with claim 1, and is therefore argued

separately.

In particular, claim 5 recites that "the step of loading the generated integration file into a field panel for use by the driver associated with the third party device comprises *flashing the generated integration file into memory* of the field panel." The Examiner has failed to identify how or where such a limitation is taught in the prior art.

Specifically, in the Final Office Action, the Examiner provided the following discussion of claim 5:

> Regarding claim 5, the step of loading the generated integration file into a field panel for use by the driver associated with the third party device comprises flashing the generated integration file in to the memory of the field panel. (Mathur et al column 4 lines 15-45).

(Final Office Action at p.4).

Applicants have carefully reviewed column 4, lines 15-45 of Mathur, and there is no mention of flashing anything into any memory, much less flashing an integration file into any memory. There also does not appear to be any mention of flashing *anything* into a memory of a *field panel*. The cited portions of Mathur simply do not teach the limitations of claim 5.

Accordingly, it is respectfully submitted that the Examiner has not identified any teaching or suggestion in either Mathur and Delp to include a feature wherein "the step of loading the generated integration file into a field panel for use by the driver associated with the third party device comprises flashing the generated integration file into memory of the field panel." For at least this additional reason, it is respectfully submitted that the obviousness rejection of claim 5 is in error and should be reversed.

4. Claim 6 is Argued Separately from Claim 1

Independent claim 6 does not include the limitations discussed above in connection with claim 1, and thus is argued separately. However, claim 6 includes a somewhat similar limitation

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of a software integration tool that is operative to "load the generated application file into the field panel for use by the driver associated with the third party device".

As discussed above in connection with claim 1, Mathur does not teach loading a generated application file into anything, much less a "field panel" as that term is normally understood. Moreover, none of the modifications of Mathur provided by the Examiner arrive at a device (or method) that loads generated application files into a field panel, as claimed in claim 6.

For at least these reasons, the rejection of claim 6 should be reversed.

5.   Claims 7 and 9 Are Not Argued Separately From Claim 6

Claims 7 and 9 depend from claim 6. The rejections of claims 7 and 9 are not argued separately from the rejection of claim 6.

6.   Claim 8 is Argued Separately

Claim 8 depends from claim 6. Accordingly, the obviousness rejection of claim 8 should be reversed for all of the reasons set forth above in connection with claim 6.

Moreover, the obviousness rejection of claim 8 should be reversed for reasons independent of those recited above in connection with claim 6, and is therefore argued separately.

Claim 8 recites the limitation "wherein the integration tool is operable to load the generated application file into a field panel for use by the driver associated with the third party device comprises flashing the generated application file into memory of the field panel." As discussed above in connection with claim 5, the Examiner has not identified where the prior art

teaches flashing *any* file into *any* memory on field panel or other device.

Accordingly, for substantially the same reasons as those set forth above in connection with claim 5, as well as those set forth above in connection with claim 6, the obviousness rejection of claim 8 should be reversed.

7. Claim 16 is Argued Separately

Independent claim 16 contains different limitations from those of claims 1 and 6 and is therefore argued separately.

In the Final Office Action, the examiner rejected claim 16 under 35 U.S.C. § 103 as being unpatentable over Mathur and Delp. It is respectfully submitted that the Examiner has failed to make a *prima facie* case of obviousness for at least the reason that neither Mathur nor Delp teach or suggest all the limitations of claim 16, either alone or in combination.

One example of a limitation of claim 16 that is not taught or suggested by the cited references is that of "transmitting, by the field panel, the stored appended field modification to the workstation." In the Final Office Action, the examiner argues that the foregoing limitation is found in Figure 13 and column 5 lines 50-67 through column 6 lines 1-15 of Mathur. (See page 6, lines 13-15 of the Final Office Action). The Examiner makes no claim that the foregoing limitation is found in Delp.

The cited portions of Mathur do not relate to or discuss data transmitted to, or data received from, a field device 100. These cited portions of Mathur relate only to the workstation. Accordingly, data cannot be transmitted "by the field panel ... to the workstation".

In the Final Office Action, the examiner did not respond to any of applicant's foregoing arguments concerning Mathur and the limitations of claim 16. Instead, the examiner simply

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stated that "Mather does in fact show transmitting the stored appended field modification data." (see page 7 of the Final Office Action). However, the examiner did not cite any new portion of Mathur or further explain how Mathur discloses this limitation.

Accordingly, neither Mathur nor Delp teach or suggest the limitation of "transmitting, by the field panel, the stored appended field modification to the workstation." Therefore it is respectfully submitted that the Examiner has failed to present prior art that teaches or suggests all the limitations of claim 16. Accordingly, the Examiner has not made a *prima facie* case of obviousness, and the 35 U.S.C. 103(a) rejection of claim 16 should be withdrawn.
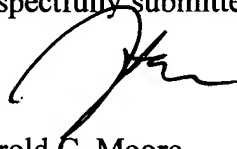
8. <u>Claim 17 is Not Argued Separately From Claim 16</u>

Claim 17 depends from claim 16. The rejection of claim 17 is not argued separately from the rejection of claim 16.

(8)   CONCLUSION

For all of the foregoing reasons, claims 1-9 and 16-17 are not unpatentably obvious over

U.S. Patent No. 7,124,397 and U.S. Patent No. 6,922,558. As a consequence, the Board of

Appeals is respectfully requested to reverse the rejection of these claims.

Respectfully submitted,

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CLAIM APPENDIX

1.   A method of integrating a third party device into a building control system, the building control system having a workstation running building control system program instructions and a separately housed field panel in communication with the workstation, the method comprising the steps of:

      providing a user interface for the input of data regarding a third party device;

      accepting data input from the user regarding the third party device through the user interface;

      launching an integration tool in response to the data input from the user regarding the third party device;

      generating an integration file by the launched integration tool for use by a driver associated with the third party device; and

      loading the generated integration file into the separately housed field panel for use by the driver associated with the third party device.

2.   The method of claim 1, wherein the step of launching an integration tool in response to the data input from the user regarding the third party device comprises launching an application builder. .

3.   The method of claim 2, wherein the step of generating an integration file by the launched integration tool for use by a driver associated with the third party device comprises generating an integration file comprising an integration application file.

4.   The method of claim 1, wherein the step of providing a user interface for the input of data regarding the third party device includes providing a user interface comprising at least one dialog box for the input of data regarding the third party device.

5. The method of claim 1, wherein the step of loading the generated integration file into a field panel for use by the driver associated with the third party device comprises flashing the generated integration file into memory of the field panel.

6. A building control system comprising:

a workstation running building control system software;

a field panel in electronic communication with, and separately housed from, said workstation via a network; and

a software integration tool configured to generate a database that will run in conjunction with said building control system software and to aid in integrating a third party device into the building control system, said software integration tool operative to a) provide a user interface for the input of data regarding a third party device, b) accept data input from the user regarding the third party device through the user interface, c) launch an application builder in response to the data input from the user regarding the third party device, d) generate an application file by the launched application builder for use by a driver associated with the third party device, and d) load the generated application file into the field panel for use by the driver associated with the third party device.

7. The building control system of claim 6, wherein the integration tool is operative to provide a user interface for the input of data regarding the third party device by providing at least one dialog box for the input of data regarding the third party device.

8. The building control system of claim 6, wherein the integration tool is operative to load the generated application file into said field panel for use by a driver associated with the third party device by flashing the generated application file into memory of the field panel.

9. The building control system of claim 6, wherein said software integration tool is stored on a computer of a user.

16.   In a building control system having a workstation and at least one field panel, a method of operating the building control system comprising the steps of:

detecting a user generated modification to a field panel data element by a field panel of the building control system;

storing data regarding the detected user generated modification to the field panel data element;

appending field panel modification data to the data regarding the detected user generated modification to the field panel data element to define stored appended field modification data; and

transmitting, by the field panel, the stored appended field modification data to the workstation.

17.   The method of claim 1, wherein providing the user interface for the input of data regarding the third party device comprises providing the user interface workstation.

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX
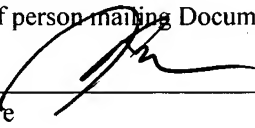
None

RELATED PROCEEDINGS APPENDIX

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May 19, 2008
Date of Signature

Re:
Application of:	Keenan, Jr. et al.
Serial No.:	10/770,351
Filed:	February 2, 2004
For:	Method and Device for Upgrading a Building Control System
Group Art Unit:	2174
Confirmation No.:	7660
Examiner:	Steven Paul Sax
Our Docket No.:	2003P01392US01 (1867-0042)

TRANSMITTAL OF BRIEF ON APPEAL

Please find for filing in connection with the above patent application the following documents:

1. Original of the Appeal Brief;

2. Check in the amount of $510.00; and

3. One (1) return post card.

Enclosed please find a check in the amount of $510.00 to cover the filing fee of a Brief on Appeal as required by 37 C.F.R. § 41.20(b)(2). Please charge any deficiency, or credit any overpayment to Deposit Account No. 13-0014.

Respectfully Submitted,

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May 19, 2008

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Enclosures